

Title: Exceptions to Exclusions of Children of Public Employees in the CHIP Program

Section: 2101, as amended by Section 10203

State Option

Overview: Section 2101 of the Patient Protection and Affordable Care Act (ACA), as amended by Section 10203, makes revisions to the federal law pertaining to the exclusion of children of public employees from coverage under the Children's Health Insurance Program (CHIP or Nevada Check Up). The change allows children of public employees an exception to the exclusion of the State's annual increase in per employee expenditures made by a public agency for employees' health coverage is not less than the annual increase in the medical category of the Consumer Price Index (CPI). Additionally, the provision allows an exception to the law on a case-by-case basis. This is applicable if the annual aggregate amount of premiums and cost-sharing for coverage of the public employees' health benefits plan exceeds five percent (5%) of the family's income.

Historically, federal policy has prohibited the inclusion of children in the Children's Health Insurance Program (CHIP) who have access to insurance through a State health benefit plan, even if the family met all other CHIP eligibility criteria.

Targeted Population: Children of public employees with access to the Public Employee Benefit Plan (PEBP) who meet all other CHIP eligibility criteria but cannot afford the premiums, co-insurance and deductibles for the employee State Health plan.

Fiscal Impact: The fiscal impact to the State is unknown at this time, as the number of families potentially eligible for CHIP cannot be accurately determined. However, this change in policy would likely increase enrollment and costs for the State's CHIP program.

This policy affects children of State employees as well as children of more than 100 other non-state businesses that have chosen to purchase employee coverage through the PEBP and therefore, are not currently eligible to enroll in Nevada Check Up. The PEBP and the Department of Personnel (DOP) are collaborating to gather data on households of State employees that may meet the eligibility criteria. The PEBP has data on state and non-state employees' dependents and spouses, while the DOP maintains salary information for State employees only. These two reports will be combined and compared to the Federal Poverty Level (FPL) for the household size known to PEBP to estimate the number of potential eligibles. However, this estimate will not include children of non-state employees as the data is not captured by DOP and will likely overstate the number of children of State employees who may be eligible for Nevada Check Up due to the lack of information on other income (e.g., spousal

income) and other eligibility factors (e.g., family size, child support payments, social security) that are not available.

Historically, the number of children denied by CHIP as a result of access to PEBP has been very minimal (e.g., in FY 2010 only 25 children were denied CHIP coverage due to access to PEBP benefits). This number likely understates the potential numbers of children who might apply for CHIP coverage if the policy is changed. That is, public employees who are potentially eligible for CHIP coverage for their children may not be applying because they are aware of the current Nevada Check Up restriction that applies to public employees.

Applicability to Nevada: An initial review of the statute by Nevada's Attorney General's office suggested that the policy was mandatory and required the State to extend CHIP coverage to public employees. Contrarily, in a conference with staff from the Centers for Medicare and Medicaid Services it was established that the official policy directive will infer the provision is optional. The official policy stance should be forthcoming by the end of this calendar year.

A review conducted by Public Consulting Group, a consulting firm under contract with the Division of Health Care Financing and Policy (DHCFP) to support ACA implementation, determined that Nevada met the criteria of the maintenance of effort condition (i.e., State spending on employees' health benefits exceeded the rate of growth in medical CPI), which would allow the State to consider eligibility for children of employees with access to PEBP benefits in Nevada's CHIP program.

This provision, if adopted by the State, would allow employees with access to PEBP the opportunity to choose between enrolling dependent children in the PEBP or the Nevada Check Up program, provided that their family income is less than 200% of FPL and all other eligibility criteria are met. Currently, children of State employees and retirees who have access to PEBP, as well as more than 100 other non-state businesses that have chosen to purchase employee coverage through PEBP, are not eligible to enroll in Nevada Check Up.

As a result of this change, DHCFP, PEBP and child support enforcement agencies will be impacted as policies and procedures will need to be enacted to accommodate this change. It would be beneficial to Nevada's public employees who have children and meet the CHIP eligibility criteria to have the option to enroll their children in the CHIP program. The children may currently be uninsured, as the monthly premiums may not be affordable for some employees. On the other hand, children may be enrolled in the PEBP plan and the family may refrain from utilizing preventative visits due to cost sharing obligations. Families may also minimize medically necessary visits in hopes that the child gets well on their own to avoid the

co-insurance and deductible requirements of the PEBP benefits. Subsequently, there may be a consequence to the child's health which may result in the need for emergent care or unanticipated long term medical effects. Since the only cost-sharing obligation for CHIP is a maximum quarterly premium of \$80.00, qualifying for CHIP would result in a cost-savings for low income employees.